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PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lalitha Vaidyanathan; Confirmation No. 7527
John Quinn; Ahmedulla
Khaishgi; Cara Cherry-
Lisco

Serial No.: 09/504,159 Docket No.: 1018-001US01

Filed: February 15, 2000 Customer No.: 28863

Examiner: Janice A. Mooneyham Group Art Unit: 3629

Title: ELECTRONIC DISPUTE RESOLUTION SYSTEM

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Post Service, as First Class Mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on August 25, 2006.

By: *Patricia Cygan*
Name: Patricia Cygan

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached correspondence relating to this application:

- Transmittal sheet containing Certificate of Mailing
 Communication Regarding Supplemental Summary of Claimed Subject Matter (3 pgs.)
 Summary of the Claimed Subject Matter (6 pgs.) in triplicate

Please apply any charges not covered, or any credits, to Deposit Account No. 50-1778.

Date: August 25, 2006

By:

Kent J. Sieffert
Name: Kent J. Sieffert
Reg. No.: 41,312

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In re Application of:

Lalitha Vaidyanathan et al.

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Mooneyham

For: ELECTRONIC DISPUTE RESOLUTION
SYSTEM

**COMMUNICATION REGARDING SUPPLEMENTAL SUMMARY OF CLAIMED
SUBJECT MATTER**

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450,
Alexandria, VA 22313

Dear Sir:

On July 25, 2006, the Examiner issued a Notification of Non-Compliant Appeal Brief, which indicated that the summary of the claimed subject matter in Appellant's Appeal Brief failed to include a concise explanation of the claimed subject matter. Consistent with MPEP 1205.03 (B), Appellant hereby submits a supplemental summary of the claimed subject matter on a separate paper in lieu of an entire new brief.

As a preliminary matter, Appellant notes the Examiner's prejudicial delay in reviewing Appellant's brief and requests prompt advancement of this appeal to the Board. Appellant filed the Notice of Appeal nearly two years ago, on November 8, 2004, and submitted an appeal brief on January 7, 2005. After receiving the Examiner's answer, the Appellant submitted a Reply Brief. After the Examiner reopened prosecution in October 2005, the Appellant reinstated the appeal, and submitted the present Appeal Brief on November 2, 2005. After **nine additional months**, the Examiner simply issued the Notification of non-compliant Appeal Brief on questionable grounds without raising any new substantive issues. Appellant directs the Examiner to MPEP 1205.03, which prevents the Examiner from rejecting an appeal brief for minor non-

compliant reasons. Appellant requests prompt acceptance by the Examiner of the attached summary of the claimed subject matter without further delay and advancement of the appeal to the Board.

In the Notification, the Examiner first stated that Appellant's Brief referred to terminology in the specification ("partner" and "partner data") that does not appear in the claims. The attached summary of claimed subject matter provides a clear nexus between the claim elements and features set forth in the specification, including such terms as "partner system" and "partner data" and other features relevant to the claims under appeal. In the attached summary, Appellant has made it clear how features described within the specification and referenced by the attached summary are relevant to the claimed subject matter and help to provide a clear understanding of the claim elements for purposes of this appeal. Moreover, the Examiner should recognize that any references to features of the specification that are relevant and helpful in understanding the claims are certainly permissible and, in fact, desirable, even if the referenced portions of the specification are not identical to the claim language. Further, MPEP 1205.02 specifically states that 37 CFR 41.37(c)(1) merely specifies the minimum requirements for a brief, and "does not prohibit the inclusion of any other material which an appellant may consider necessary or desirable." According to MPEP 1205.02, a brief is in compliant with 37 CFR 41.37(c)(1) as long as it includes items in the order set forth regardless of whether the appellant has included additional material that he or she considers relevant.

Secondly, the Examiner stated that Appellant failed to provide an explanation for the subject matter of all dependent claims argued separately as required by 37 CFR 41.37(c)(1)(v). Appellant points out that, contrary to the Examiner's assertion, this rule does not require an explanation of each dependent claim argued separately by the Appellant. Rather, the rule requires identification of corresponding structure, material, or acts in the specification for each independent claim and dependent claim only in the case of means plus function or step plus function under 35 USC 112, sixth paragraph. Otherwise, only the independent claims involved in the appeal need be explained. Appellant's claims do not involve any means-plus-function elements, and the Examiner's objection is in error. Nevertheless, Appellant has provided a summary of each dependent claim to expedite the appeal process and prevent further delay.

Third, the Examiner stated that the Appellant's references to Figures 1 and 2B and the related description when explaining independent claim 1 (a method claim) is improper because

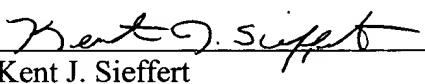
Figures 1 and 2B are system diagrams. The attached summary of claimed subject matter provides a clear nexus between each of the claim elements and the features described in the specification.

Appellant submits that the attached summary of the claimed subject matter is compliant with the requirements of 37 CFR 41.37(c)(1)(v), and hereby requests prompt advancement of the appeal to the Board.

Date: August 25, 2006

By:

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SUMMARY OF THE CLAIMED SUBJECT MATTER



Independent claim 1

Independent claim 1 is directed to a method for resolving an electronic commerce dispute involving one or more parties. Independent claim 1 recites electronically providing access to an online dispute resolution system (dispute resolution system 130 of FIG. 1 and dispute resolution system 150 of FIG. 2B) to allow at least one of the parties (seller 104 or consumer 106 of FIG. 1) to initiate a filing of the dispute from an online marketplace (marketplace 102 of FIG. 1).

With respect to the “online dispute resolution system” and “parties” recited by claim 1, the present application at pp. 11-12 describes dispute resolution systems 130 and 150 of FIGS. 1 and 2, respectively, as assisting sellers 104 and consumers 106 in resolving disputes, e.g., disputes related to transactions that occur within marketplace 102. With respect to the “online marketplace” recited by claim 1, the present application states that marketplace 102 of FIG. 1 is an online marketplace such as “a website or an online centralized trading place.”¹ The present application gives a specific example of an online marketplace as www.eBay.com, which is a well-known centralized trading place on the Internet.²

Claim 1 specifically requires the step of allowing at least one of the parties (shown as seller 104 or consumer 106 of FIG. 1) to initiate a filing of the dispute from an online marketplace. With respect to these elements, Appellant refers the Board to page. 16, ll. 21-22 of the present application. This portion of the specification describes that, after purchase, if the buyer is dissatisfied with the online transaction previously entered into at the marketplace, the buyer can file a complaint if he or she desires. FIG. 6 is relevant to this feature of the claim, and illustrates a complaint pre-filing process in which step 282 shows a seller or buyer initiating a dispute by interacting with a partner system, such as online marketplace 102. Block 282 of the method set forth in FIG. 6 is clearly labeled <partner> so as illustrate that the function is performed by an electronic partner system e.g., marketplace 102, and that a party can interact with the partner system

¹ Page 11, ln. 5.

² Page 11, ll. 11-17.

to remotely initiate a dispute to be handled by the online dispute resolution system 130 or 150.

Claim 1 further requires the step of electronically receiving, with the online dispute resolution system, transaction data from the marketplace, wherein the transaction data describes transactions within the marketplace. Figure 2B and the related description are relevant to understanding these elements of claim 1. Specifically, Figure 2B shows a dispute resolution system 150 that shares data directly with other partner systems.³ Description of Figure 2B is of particular relevance to understanding the required step of claim 1 of receiving, with the online dispute resolution system, transaction data from the marketplace. With respect to this claimed step, the specification describes software objects that may be integrated into a partner system, such as the online marketplace, that allow the partner system to transparently send relevant partner transactions to the dispute resolution system 130.⁴ The specification also states that partner data 164 for relevant transactions in dispute can be electronically communicated from a partner system to dispute resolution system 130 by way of data manager 162.⁵

Claim 1 also requires the step of receiving, from at least one of the parties, information related to the dispute, and executing software with the online dispute resolution system to apply an online dispute resolution process that utilizes at least a portion of the transaction data from the marketplace and the information to assist the parties in resolving the dispute. Figure 6 and the related description at pg. 20, ln. 17, describe the step of a party completing a complaint form after initiating a complaint filing. Further, the present application provides numerous examples of dispute resolution system 130 performing the step of utilizing data describing the transaction to assist buyers and sellers in resolving the disputes related to those transactions. As one example, Appellant refers the Board to FIG. 10 and the related description that describes a predictive reasoning process (method) 500 at pg. 26, ln. 23 – pg. 27, ln. 21 that utilizes data describing a disputed transaction to “assist[] the dispute resolution specialists as well as the parties themselves in deciding a fair resolution of the dispute.” In this example, the

³ See, e.g., pg. 13, ll. 14-15 describing a second implementation 150; pg. 14, ll. 4-5 describing how remote software objects allow business partners to integrate with the dispute resolution system.

⁴ Page 14, ll. 1-9.

⁵ Page 14, ll. 10-15.

present application makes clear that dispute resolution system 130 uses facts describing the transaction to search a historical database to identify previous cases with similar facts. Dispute resolution system 130 then retrieves, summarizes and displays the outcomes of the cases similar to the disputed transaction for all parties and the dispute resolution specialist to assist them in resolving the present dispute.

Independent claim 112

Independent claim 112 is directed to a system comprising an online dispute resolution system (130 of FIG. 1, 150 of FIG. 2B) that electronically receives transaction data (see partner data 164 of FIG. 2B) from a marketplace (102) that provides a web-based community having buyers and sellers (104 and 106) of goods and services, the transaction data describing transactions within the electronic marketplace.

Claim 112 requires that the dispute resolution system execute software that utilizes the transaction data and apply a dispute resolution process to assist the buyers or sellers in resolving disputes relating to the transactions. As discussed above with respect to claim 1, the present application provides numerous examples of dispute resolution system 130 utilizing data describing the transaction to assist buyers and sellers in resolving the disputes related to those transactions. For example, FIG. 10 and the related description at pg. 26, ln. 23 – pg. 27, ln. 21 describes a predictive reasoning method 500 that utilizes data describing a disputed transaction to “assist[] the dispute resolution specialists as well as the parties themselves in deciding a fair resolution of the dispute.”

Unlike claim 1, independent claim 112 requires that the online dispute resolution system electronically provides status data back to the marketplace based on participation of the buyers or sellers within the online dispute resolution process. With respect to these claim elements, Appellant refers the Board to the specification at pg. 14, ll. 1-11 that describes software objects that may be integrated into a partner system, such as the online marketplace 102, that allow the partner system to transparently query dispute resolution system 130 and receive specific information from the online dispute resolution system including a status of a specific marketplace seller.

Dependent claim 111 and 115

Claim 111 requires that the step of automatically electronically communicating the transaction data (see partner data 164 of FIG. 2) between a database of the online dispute resolution system (see database server 160 of dispute resolution system 150 of FIG. 2) and a database of the electronic marketplace (see partner database 164 of FIG. 2).

Claim 115 requires that the online dispute resolution system (see dispute resolution system 150 of FIG. 2) includes a data manager software application (see data manager 162) to automatically communicate data (see partner data 164) between a database of the online dispute resolution system (see database server 160 of dispute resolution system 150 FIG. 2) and the database of the electronic marketplace (see partner database 164 of FIG. 2).

Dependent claims 110 and 113

Appellant's claims 110 and 113 require automatically initiating enrollment in an online dispute resolution system in response to requests received from an online marketplace. Fig. 4 and the related description describe a process 240 whereby a seller can request coverage from the dispute resolution system. Block 240 of Fig. 4 shows the request being initiated by the buyer by a website provided by the partner system, e.g., the website of electronic market place 110. Blocks 246, 248 and 250 of the process show control returning to the partner system after the enrollment request is serviced.

Dependent claim 30

Appellant's claim 30 requires communicating membership data from the online dispute resolution system to the online marketplace, and automatically showing a visual indicia within the marketplace to indicate the availability of the dispute resolution system and the membership of buyers or sellers in the dispute resolution process. Relevant to these claim elements, the present application describes software objects executing within a partner system (e.g., the online marketplace 102) to provide functionality to receive specific information from the dispute resolution system 150 of FIG. 2B.⁶ According to the present application, the objects can query the dispute resolution system data to receive

⁶ See, e.g., Figure 2B, pp. 13-14.

status of a particular marketplace seller. Based on the status, the partner system can provide “visual indicia” that a seller in a transaction has membership in the dispute resolution system. Also relevant to understanding these claim elements is pg. 15, ll. 20-22, where the present application describes how, upon enrolling a seller and updating a membership database, a process executing within the dispute resolution system electronically communicates visual indicia, such as a graphical medallion, to the partner system to be displayed by the partner system.

Dependent claim 2, 64 and 93

Appellant’s claim 2 requires automatically selecting one of two modes of resolving the dispute, the first mode requiring the online dispute resolution process being driven by an electronic agent to assist the parties in resolving the dispute and the second mode involving a human dispute resolution specialist. Relevant to these claim elements, at pg. 4, ll. 21-22, the present application describes a method of applying a case-based reasoning system to assist the determination of selecting one of two modes of resolving the dispute, the first mode being completely driven by an electronic agent and the second mode involving a dispute resolution specialist.

Claim 64 requires a database to store facts and outcomes of previously resolved disputes, and a server that receives case information related to the dispute and compares the case information to the facts of previously resolved disputes stored by the database to produce a result for use in selection of a mode of resolving the dispute, and presents a result of the comparison to the parties via the network. Relevant to these claim elements, at pg. 4, ln 22 - pg. 5, ln. 4, the present application states that the case-based reasoning system can contain a history file that contains patterns and precedents, which are applied to generate an outcome prediction to assist the parties in determining of the mode of dispute resolution.

Claim 93 requires a different embodiment in which the server compares the case information to facts of previously resolved disputes to automatically select a resolution mode comprising one of (i) a direct negotiation mode, (ii) a conciliation mode, and (iii) mediation mode. See, e.g., pg. 4, ll. 21-22.

Dependent claim 108

Claim 108 requires training a dispute resolution specialist by requiring the dispute resolution specialist to experience transactions within online marketplaces including at least an auction site; outputting simulated online dispute resolution cases to the dispute resolution specialists via the computer network to assess the skills of the dispute resolution specialists; and assigning online disputes to the dispute resolution specialists only upon completion of the training and successful resolution of the simulated online dispute resolution cases. The present application, at pg. 12, ll. 11-22, describes a training process and, in particular, use of simulated online dispute resolution cases to train dispute resolution specialists.